



# AGENDA ITEM MEMORADUM

Item No. 146

**Development Services**

Department

**Linda Connors** *le*

Town Planner *AB*

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
X November 29, 2011	November 10, 2011

*\*Subject to Change*

- Presentation     Reports     Consent     Ordinance  
 Resolution     **Quasi-Judicial**     Old Business     New Business

**FY2011 DESIGNATED HIGH PRIORITY ITEM - PRIORITY TOPIC**

**SUBJECT TITLE:** VMC Realty, Inc. /Conditional Use Application for Private Valet Parking and Paid Private Parking in the B-1 Zoning District.

**EXPLANATION:** At the October 19, 2011 meeting, the Planning and Zoning Board reviewed an application (**Exhibit 1**) from the VMC Realty, Inc. (224 Commercial Boulevard) requesting conditional use approval to provide private valet parking and paid private parking. VMC proposes to allow Aruba Beach Café to use their parking lot for paid private parking on off hours of the business offices and on weekends and holidays. This service will be provided only during the business hours of Aruba Beach Café restaurant. Valet services will be conducted at Aruba Beach Café (1 Commercial Boulevard) and the valet employees will be transferring the vehicles to and from the VMC Realty.

This is an existing service that VMC has been providing through Aruba Beach Cafe for many years; however, this was not an approved use in the Zoning Code. In 2011, the Town amended the code to allow this use as a conditional use in the B1 and B1A zoning districts.

**BOARD RECOMMENDATION:** At its October 19, 2011 meeting, after hearing testimony from the applicant and Town staff, the Planning and Zoning Board's motion with staff's conditions of approval listing 11 requirements in the staff report was approved unanimously. The staff report (**Exhibit 1**) and minutes of the meeting (**Exhibit 2**) are attached.

The Conditional Use Order is attached (**Exhibit 3**) and includes the conditions recommended by Staff and the Planning and Zoning Board. These conditions are:

1. The use will be maintained and operated as provided in the Aruba Beach Café applicant's letter of request submitted with the application received by the Development Services Department on February 28, 2011, attached as part of **Exhibit 1**.
2. The applicant may provide valet customer parking and paid private parking through Aruba Beach Café valet service and only from their business location (1 Commercial Boulevard) during non-business hours of the primary business use/s for the applicant's property (224 Commercial Blvd).
3. All vehicles shall be dropped off and picked up at Aruba Beach Café and no customers shall drop off or pick up at the applicant's site.
4. Noise disturbances from attendants or noises emanating from the vehicles that would disrupt the quiet enjoyment of the surrounding properties will not be permitted.
5. Within 30 days of approval, the applicant shall provide a maintenance plan describing how and who will be cleaning the parking lot on a daily basis prior to the opening hours of the business on site. The maintenance plan may be required to be modified by the Town Manager or designee if it does not adequately keep the property clean. In addition, the applicant may be required to clean off-site if litter is being produced from customers of the parking lot.
6. An active Business Tax Receipt for the "Paid Public Parking" operation is required.



7. All state and county licenses are required to be maintained at all times.
8. The Conditional Use permit is specific to the applicant and is not transferable.
9. Parking meters or pay stations are prohibited.
10. This development order shall be recorded in the Public Records of Broward County by the applicant, at his/her sole cost and expense.
11. Failure to provide to the Town a certified recorded copy of the conditional use order or the maintenance plan within 30 days of approval will nullify the approval of this conditional use application.

As required by Town code, notices were sent to those properties within 300'. The Town received one (1) call regarding the application. After an explanation of the application, the resident supported the request. It should be noted that since the Planning and Zoning Board meeting, the applicant has complied with those conditions that required action on their part, specifically conditions 5 and 6.

**RECOMMENDATION:** If the Commission approves the conditional use, staff recommends approval of the attached Order.

- EXHIBIT 1: Staff Report
- EXHIBIT 2: Planning and Zoning Board Minutes – October 19, 2011
- EXHIBIT 3: Conditional Use Order

Reviewed by Town Attorney

Yes     No

Town Manager Initials CA



Town of Lauderdale-by-the-Sea  
Development Services  
4501 N. Ocean Drive  
Lauderdale-by-the-Sea, FL 33308  
Phone (954) 776-3611  
Fax (954) 776-3431

**STAFF REPORT**

To: Planning & Zoning Board  
Thru: Bud Bentley, Assistant Town Manager *[Signature]*  
From: Linda Connors, Planner  
Date: 10/12/2011  
Re: VMC Realty, Inc. /Conditional Use Application for Private Valet Parking and Paid Private Parking in the B-1 Zoning District.  
P&Z Date: October 19, 2011

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The purpose of this memorandum is to provide Staff's analysis and recommendation on the Conditional Use application received on September 20, 2011 for VMC Realty, Inc. The applicant is seeking approval to allow paid private parking (by valet) as a conditional use.

**Conditional Use Application**

The Development Service Department staff reviewed the application and supporting documents (**Exhibit 1**) pursuant to the requirements of the Town's Land Development Code. The code allows the Development Services Director to waive application requirements and many of the requirements not related or necessary for the evaluation of their conditional use application were waived. The traffic study was waived as the staff determined the traffic impact to the site would be negligible. There was no change to the property's site plan on file with the Town.

VMC proposes to allow Aruba Beach Café to use their parking lot for paid private parking on off hours of the business offices and on weekends and holidays. This service will be provided only during the business hours of Aruba Beach Café restaurant. Valet services will be conducted at Aruba Beach Café (1 Commercial Boulevard) and the valet employees will be transferring the vehicles to and from the VMC Realty.

**Background**

VMC Realty is located at 224 Commercial Boulevard and is zoned B-1. The current use of the property is commercial. The proposed use will remain the same with the addition of paid private parking.

The minimum required number of parking spaces for the property is shown in Table 1 below.

Table 1

	224 Commercial Blvd	Total	Required Parking Spaces
1.	Building (Sq. Ft.)		11,650
	Total Required Spaces		39
	Total Number of Parking Spaces on Site		45
	1995 Credits		N/A
	Total Number of Non-Required Onsite Parking Spaces		6

**Criteria, Analysis and Findings**

Section 30-56 of the Town's Unified Land Development Code outlines the specific criteria for approving a Conditional use. These criteria and staff's analysis and findings regarding the application are listed below.

1. **Land Use Compatibility.** The conditional use, including its proposed scale and intensity, traffic generating characteristics, and off-site impacts shall be compatible and harmonious with adjacent land uses and shall not adversely impact land use activities and residential areas in the immediate vicinity. For purposes of a conditional use review, compatibility is defined as a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition. Compatibility of land uses is dependent on numerous development characteristics, which may impact adjacent or surrounding uses. They include: type of use, density, intensity, height, general appearance and aesthetics, odors, noise, smoke, vibration, traffic generation and nuisances. The Town Manager shall recommend whether the conditional use is compatible. Compatibility shall be measured based on all of the following characteristics of the proposed use or development in relationship to surrounding development in the immediate area:
  - i. Permitted uses, structures and activities allowed within the land use category.
  - ii. Building location, dimensions, height, and floor area ratio.
  - iii. Location and extent of parking, access drives and service areas.
  - iv. Traffic generation, hours of operation, noise levels and outdoor lighting.
  - v. Alteration of light and air.
  - vi. Setbacks and buffers such as fences, walls, landscaping and open space treatment.
  - vii. The architectural and site design are compatible with the character of the surrounding area.
  - viii. Any existing or proposed signs or lighting will not adversely affect surrounding areas or vehicular traffic.

**Staff Analysis:** There are commercial business uses immediately adjacent to the property and the proposed conditional use will remain the same. There have been no reports indicating it has or had a negative impact on the surrounding neighborhood.

**Staff Finding:** The proposed conditional use, including its scale, intensity, traffic generating characteristics, and off-site impacts are compatible and harmonious with adjacent land uses.

2. **Sufficient Site Size, Site Specifications and Infrastructure.** Sufficient site size, site specifications, and infrastructure to accommodate the proposed use. The size and shape of the site, the proposed access and internal circulation, and the urban design must be adequate to accommodate the proposed scale and intensity of the conditional use requested. The site shall be of sufficient size to provide adequate screening, buffers, landscaping, open space, off-street parking, efficient internal traffic circulation, infrastructure and similar site plan improvements needed to mitigate against potential adverse impacts of the proposed use.

**Staff Analysis:** The conditional use is proposed to occur within the existing parking lot of the site and there will be no change in the physical characteristics of the site.

**Staff Finding:** There is sufficient site size, site specifications and infrastructure to accommodate the proposed use. At the Aruba Beach Café's peak restaurant hours, paid public parking may be suspended as all of the parking spaces may be taken by customer parking.

3. **Compliance with the Comprehensive Plan and Code of Ordinances.** The conditional use shall comply with environmental, zoning, concurrency and other applicable regulations of this Code of Ordinances and shall be consistent with the Comprehensive Plan.

**Staff Analysis:** The subject property's zoning is B-1 Business and the proposed use (Paid Private Parking) is an allowable conditional use within this zoning district. Furthermore, the application is supported by Objective 10.7 of the Town's Comprehensive Plan which supports the increase of the amount of business area off-street parking.

**Staff Finding:** The conditional use complies with the applicable regulations of the Town's Unified Land Development Regulations and is consistent with the Town's Comprehensive Plan.

4. **Proper Use of Mitigative Techniques.** The conditional use and site plan shall incorporate mitigative techniques needed to prevent adverse impacts to adjacent land uses. In addition, the design scheme shall appropriately address off-site impacts to ensure that land use activities in the immediate vicinity, including community infrastructure, are not burdened with adverse impacts detrimental to the general public health, safety and welfare.

**Staff Finding:** Staff has recommended conditions to proactively address possible adverse impacts to the public health, safety and general welfare.

### **Recommendation and Conditions**

Notification will be published in the Sun-Sentinel and mailed to effected parties within 300 feet as required by the Towns Code of Ordinances 30-13 (d) (2) at the time it goes before the Commission.

Staff recommends approval of the proposed conditional use with the following conditions:

1. The use will be maintained and operated as provided in the Aruba Beach Café applicant's letter of request submitted with the application received by the Development Services Department on February 28, 2011, attached as part of **Exhibit 1.**

2. The applicant may provide valet customer parking and paid private parking through Aruba Beach Café valet service and only from their business location (1 Commercial Boulevard) during non-business hours of the primary business use/s for the applicant's property (224 Commercial Blvd).
3. All vehicles shall be dropped off and picked up at Aruba Beach Café and no customers shall drop off or pick up at the applicant's site.
4. Noise disturbances from attendants or noises emanating from the vehicles that would disrupt the quiet enjoyment of the surrounding properties will not be permitted.
5. Within 30 days of approval, the applicant shall provide a maintenance plan describing how and who will be cleaning the parking lot on a daily basis prior to the opening hours of the business on site. The maintenance plan may be required to be modified by the Town Manager or designee if it does not adequately keep the property clean. In addition, the applicant may be required to clean off-site if litter is being produced from customers of the parking lot.
6. An active Business Tax Receipt for the "Paid Public Parking" operation is required.
7. All state and county licenses are required to be maintained at all times.
8. The Conditional Use permit is specific to the applicant and is not transferable.
9. Parking meters or pay stations are prohibited.
10. This development order shall be recorded in the Public Records of Broward County by the applicant, at his/her sole cost and expense.
11. Failure to provide to the Town a certified recorded copy of the conditional use order or the maintenance plan within 30 days of approval will nullify the approval of this conditional use application.

# Conditional Use Permit Application

Development Services  
Town of Lauderdale by the Sea  
4501 Ocean Drive  
Lauderdale by the Sea, FL. 33308  
www.lbts-fl.gov (954-776-0576)

Application # 11-09

Date application submitted \_\_\_\_\_

Date Application found to be completed \_\_\_\_\_

Planning and Zoning Date \_\_\_\_\_

Commission Date \_\_\_\_\_

Application fee paid will be paid by ARUBA

### General Information

Applicants Name VMC Realty ARUBA Beach Club Address \_\_\_\_\_ Phone # 954-772-3347

Owners Name if not the same as the Applicant Lauderdale Properties, N/A

Owners Address 2132 S Ocala Park Blvd Phone # 954 5661661  
40 VMC Realty 74 Land 28 33306

Property address where use will be conducted 224 Commercial Blvd.

### Current Property Information

Folio # 494318050060 Zoning District B-1 Lot 1-4 Block B Subdivision Silver Shares Unit A

Present Use office bldg

Hours of operation for each use until 5pm weekdays closed on weekends holidays

Existing total floor area per use (sq. ft.) \_\_\_\_\_

Required number of parking spaces for current use 40

Existing number of parking spaces 40

### Proposed Use Information

Type of Use requested Paid Private Parking for ARUBA Beach After Business

Hours of operation for the proposed use 5pm closing weekends, holidays All day

Estimated number of individuals to be employed STAFF by ARUBA

Applicant shall include a site plan and all applicable information outlined in Article IV of Chapter 30 of the Town's Code of Ordinances. Non applicable information outlined within Chapter 30 may be waived by the Development Services Director.

Suzanne V Waterhouse Date 9-20-11  
Signature (Owner/Authorized Agent)

Suzanne V Waterhouse  
Printed Name  
Authorized mensly Agt

Special Use Permit Application

Development Services  
Town of Lauderdale by the Sea  
4501 Ocean Drive  
Lauderdale by the Sea, FL 33308  
www.townoflbts.com (954-776-0376)

Application # 2011-01-01

Date application submitted 2/25/11  
Date Application found to be complete 2/25/11  
Planning and Zoning Date \_\_\_\_\_  
Commission Date \_\_\_\_\_  
Application fee paid \_\_\_\_\_

02-25-11 10:54 AM ROVD

General Information

Applicants Name ARUBA Beachcat Address one Commercial Blvd Phone # 454-772-3347  
Owners Name if not the same as the Applicant ARUBA Bay LLC  
Owners Address one Commercial Blvd L.B.T.S.FI Phone # 954-803-9114  
Property address where use will be conducted one Commercial Blvd LBTS FL 33308

Current Property Information

Folio # 9318-01-0290 Zoning District B-1 Lot 3-7 Block 6 Subdivision LBTS  
Present Use Parking. Restaurant  
Hours of operation for each use 9 - 2 AM  
Existing total floor area per use (sq. ft.) TOTAL 7750<sup>00</sup> - SVR AREA - 3450 -  
Required number of parking spaces for current use 0 - Grand Father In  
Existing number of parking spaces 25+ PLUS PR

Proposed Use Information

Type of Use requested Paid Private Parking for Restaurant. Beach  
Hour of operation for the proposed use 9 - 2 AM  
Estimated number of individuals to be employed 5-20

This has been done for 20 years (PR)

Applicant shall include a site plan and all applicable information outlined in Article IV of Chapter 30 of the Towns Code of Ordinances. Non applicable information outlined within Chapter 30 may be waived by the Development services Director.

Rogay Moller Date 2-25-11  
(Signature (Owner/Authorized Agent))  
Rogay Moller  
Printed Name

Attached copy

# CORPORATE OFFICE

Yesterday's  
On the Intracoastal

Ocean Bistro  
A1A - Ft. Lauderdale

BRIO  
BEACH CLUB  
Jupiter, Florida

THE Poinciana Club  
PALM BEACH, FLORIDA

Casablanca  
Cafe  
Ft. Lauderdale, FL

ARUBA  
Beach Cafe  
L.B.T.S, FL

2/25/11

Attached Conditional Permit

4412 N Ocean LBTS FI 33308  
Parking lot Day Night 25

224 Commercial Blvd after 5:30 / all  
day Sat-Sun and evening and all  
day evening on any Holiday 45

Ocean Revere apts Lot on A1-A side  
Back 10-15

Basin Marnie only overflow on Holidays  
only Mother Day Easter

This has been this way for over 15  
years

Regyn Mohler

Charging only  
on private lot  
ARUBA only  
unless Road is Closed  
By TOWN.

# TOWN OF LAUDERDALE-BY-THE-SEA

## PLANNING AND ZONING REGULAR MEETING MINUTES

*Town Commission Meeting Room*

*Wednesday, October 19, 2011*

*6:30 P.M.*

### I. CALL TO ORDER

Chairman Alfred Oldaker called the meeting to order at 6:30 P.M. Members present were Chairman Alfred Oldaker, Lawrence Wick and First Alternate Eric Yankwitt. Also present were Linda Connors, Planner and Zoning Contractor for the Town, Bud Bentley, Assistant Town Manager, and Town Attorney Kathryn Mehaffey. Board Secretary Colleen Tyrrell was present to record the minutes of the meeting.

### II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of allegiance was recited.

### III. APPROVAL OF MINUTES - Planning and Zoning Meeting of August 17, 2011

There being no additions, deletions or changes to the minutes, Eric Yankwitt made a motion, seconded by Mr. Wick, to approve the August 17, 2011 minutes as presented.

### III. PUBLIC COMMENTS

There were no public comments.

### V. NEW BUSINESS

**Item #1: Applicant: Aruba Beach Café  
Location: 1 Commercial Boulevard  
Conditional Use application for Paid Private Parking in the B-1 and B1-A Zoning District.**

Town Planner Cecelia Ward of JC Consulting Inc. is acting on the behalf of the Town and introduced Linda Connors who has been brought in to assist the Town with the day-to-day planning activities and would be handling the applications that come in that would go before the Planning and Zoning Board and would be presenting Items 1 and 2 to the board.

Linda Connors said that currently she would be working at the Town for 20 to 25 hours and that she would be working mostly Monday mornings, Tuesday and Wednesday afternoons and Thursday all day. Ms. Connors said that her direct phone line is 954-640-4214.

Ms. Connors said that she provided staff's analysis and recommendation on the Conditional Use application for the Aruba Beach Café for Paid Private Parking in the B-1 and B-1-A Zoning Districts. The applicant is seeking approval to conduct Paid Private Parking by valet as a conditional use for the property located at 1 East Commercial Boulevard. The applicant advised that they have historically provided beach parking to help with the limited public parking in Town. Ms. Connors referred to the Exhibits and said that the first map indicated the parking lots and the second map reflected the second item at 224 East Commercial Boulevard.

Ms. Connors said that the current use of 1 East Commercial Boulevard is restaurant and the proposed use would remain the same with the addition of Paid Public Parking. The property located at 224 East Commercial Boulevard is zoned B-1 and the current use of the property is a commercial building and parking lot. Ms. Connors referred to the table in the staff report that indicates the parking that is available in the lots that are included in the Paid Private Parking which is a total of 85 spots.

Ms. Connors referred to Code Section 30-56 that outlines the specific criteria for approving a Conditional Uses that were included. Staff analyzed these conditions and found that the scale and intensity, traffic generating characteristics, and off-site impacts were compatible and harmonious with adjacent land uses and would not adversely impact land use activities and residential areas in the immediate area and that the conditional use complies with the Land Development regulations in the Comprehensive Plan.

Ms. Connors said that staff recommends approval of the proposed conditional use based on an updated list of 14 conditions that was handed out to the board for review. Ms. Connors pointed out condition #7 that stipulates that *"within 30 days of the conditional use approval, landscaped planters will be provided on the west side of 4412 Ocean Drive between the existing fence and the public right of way, subject to approval by the Town Manager or Designee"*. Additionally, the applicant shall provide documentation that the property owners of the parking lots agree with the inclusion of their land in the application and that could be a letter allowing the lots to be approved and Aruba to be the authorized agent or by providing a copy of the lease agreement.

Chairman Oldaker asked Ms. Connors with regards to all of staff's recommendations being placed on Aruba, what is the relationship of the property owner and Aruba; would it be Aruba's responsibility or would it be subject to their lease? Or would it be subject to the permit?

Ms. Connors said that the conditions would be the responsibility of Aruba because they were the applicant.

Chairman Oldaker referred to the photo of the parking lot and asked Ms. Connors if there were any code requirements for entrances and exits of the parking lot.

Ms. Connors responded that this parking lot has been in existence for a very long time and has legal non-conforming status.

Chairman Oldaker referred to the unfinished concrete block wall in the photo and suggested that the wall be finished to give it a better appearance and suggested that a condition be added to the existing list.

Ms. Connors said that the exterior concrete block wall has been painted but the interior wall has not been painted. Ms. Connors said that the applicant has agreed to paint the interior concrete block wall to improve the appearance.

Mr. Wick referred to condition number 7 in Staff's report that states *"Within 30 days of the conditional use approval, landscaped planters will be provided on the west side of 4412 Ocean Drive between the existing fence and the public right of way, subject to approval by the Town Manager or Designee"* and asked why the Town was putting this condition on this parking lot and not on the others in Town.

Ms. Connors responded that it was because they came to the Town and submitted an application for approval.

Mr. Wick said that because Aruba came to the Town and condition 7 was one of the stipulations they agreed to.

Ms. Connors responded in the affirmative.

Mr. Yankwitt said that he has not heard the reasons why the Town is requiring Aruba to put in landscaping.

Ms. Connors said that in the Town's code section 30-478 b.1 (*Landscape requirements for vehicular use areas*) requires perimeter landscaping area. Along the perimeter of a parcel of land that abuts a street, exclusive of vehicular access points, a perimeter landscape area shall be provided. Ms. Connors said that because Aruba has come before the board to request a conditional use, we are asking them to bring that portion of the lot up to code. Because the lot is existing and the Town realizes

there are difficulties in providing the normal landscape area that includes irrigation, staff has recommended the use of planters so that it would not be a hardship to provide that condition.

Chairman Oldaker asked signage for the parking be required.

Cecelia Ward came forward to respond that typically when you have legal-non conforming status you are allowed to continue that status unless you ask for something in an application. The fact that Aruba has applied for a request, staff could ask for some form of provision that upgrades. With respect to signage, there is nothing that would be done in conjunction to this particular application that would warrant the ability to delve into the signage issue. If they were doing something that would trigger the need for a sign, then staff could ask for that to be brought up to code.

Ms. Connors concluded her presentation.

Chairman Oldaker asked the applicant for their comments.

Attorney Nectaria Chakas with the law firm located at 1401 East Broward Boulevard Suite 200, Fort Lauderdale, Florida 33301, was present on behalf of the Aruba Beach Café. Ms. Chakas said that this is a conditional use application for a paid private parking facility that operates from a location at 1 Commercial Boulevard. The property is zoned properly which allows the activity to take place. All of the activity has taken place for several years, so this is not a new use being introduced into the area. The parking lots that are part of this application have been there for many years and they are stand-alone parking lots. The applicant has agreed to the upgrades that staff has requested and they are happy to accommodate those conditions and even the request to paint the interior concrete block wall to make it look more presentable. Ms. Chakas said that they have also been discussing with staff ways that they could upgrade the landscaping in front of the fence and said that the fence, unfortunately, swings out and they would have to figure out a way so that the fence would swing in so that they could put some planters in the front. Ms. Chakas said that this was something they were willing to work out with staff to obtain some sort of solution. Ms. Chakas said that they have a recommendation for approval from staff and they meet all of the conditions that are required for a conditional use approval. Ms. Chakas concluded her comments.

Mr. Wick confirmed with Ms. Chakas that the lot is being used for the exact same use that they have been doing this for years and that the only difference is to clarify the use more correctly with the Town's code.

Ms. Chakas said that there is no change at all in the use and that this was a brand new code provision that was adopted and they are just trying to comply with the new code.

Chairman Oldaker asked if there were any public comments. There being no public comments, Chairman Oldaker asked the board to make a motion to approve or disapprove.

Mr. Wick made a motion, seconded by Mr. Yankwitt, to approve the conditional use for paid private parking as presented with staff's recommended conditions of approval listing 13 requirements.

Chairman Oldaker made a friendly amendment to the main motion, seconded by Mr. Yankwitt, to add the following additional conditions:

- a. Paint the interior concrete block wall to improve the over-all appearance of the wall.
- b. The applicant shall provide a lease agreement or a letter of authorization allowing Aruba to act as the authorized agent for the parking lot.
- c. Install landscaped planters on the west side between the existing fence and the public right of way, subject to approval by the Town Manager or Designee.

Mr. Wick accepted the friendly amendment to the main motion.

In a roll call vote, all voted in favor to recommend approval of the main motion with staff's conditions of approval listing 13 requirements in the staff report with its friendly amendment to include the following additional requirements: a) Paint the interior

concrete block wall to improve the over-all appearance of the wall. b) The applicant shall provide a lease agreement or a letter of authorization allowing Aruba to act as the authorized agent for the parking lot. c) Install landscaped planters on the west side between the existing fence and the public right of way, subject to approval by the Town Manager or Designee.

**Item #2: Applicant: VMC Realty  
Location: 224 Commercial Boulevard  
Conditional Use application for Paid Private Parking in the B-1 Zoning District.**

Chairman Oldaker asked Ms. Connors for her presentation.

Ms. Connors said that this is another conditional use application for paid private parking at 224 Commercial Boulevard and this application is for a commercial building. Ms. Connors referred to the staff report that lists the 39 parking spaces that are required with 6 parking spaces that are not required that total 45 onsite parking spaces available. The applicant would like to allow for paid private parking and allow the parking to be valeted through Aruba Beach Café which was just approved by the board. The valet service will be at 1 Commercial Boulevard and the pickup will also be at 1 Commercial Boulevard and will be all maintained in that general area. Because this is a commercial building, the conditional use is allowed off hours and on holidays during the day because there is a use existing on the site and the parking spaces are being used during the day. Again, staff has reviewed the criteria analysis in Section 30-56 which includes land use compatibility; sufficient site size; site specification and infrastructure; compliance with the Comprehensive Plan and Code of Ordinances; and proper use of mitigated techniques. Ms. Connors said that staff has determined that all four of these requirements have been met and staff recommends approval of the proposed conditional use with the 11 conditions listed in staff's report. Ms. Connors concluded her presentation.

Chairman Oldaker said that since this location is a multi-tenant building that houses different types of businesses that have different business hours, would any conflict that may arise from that be purely a landlord/tenant situation.

Ms. Connors said that the use of the building is "office", so the hours would be the general 8 am to 5 pm and agreed with Chairman Oldaker that any conflict would be a tenant/landlord issue.

Mr. Wick interjected that the application indicates that the paid private parking for Aruba Beach Café would be after business hours (5 pm closing) weekends and holidays all day which specifies that they already have an agreement.

Ms. Connors confirmed Mr. Wick's statement and said that this is a continuation and that Aruba was already using this lot and again, they are bringing this existing use up to the current conditional use code and that this is nothing new to the Town.

Chairman Oldaker asked for comments from the applicant.

Nectaria Chakas came forward and said that she was present on behalf of the Aruba Beach Café and said that the owner of the property is VMC Realty Inc. and they have signed the application and have authorized Aruba to go head and file this application on their behalf. Ms. Chakas said that this operation has been ongoing for several years and indicated they were going through the process to comply with the current code by obtaining a conditional use for the property. Essentially, whenever the office building is closed, that is when Aruba is allowed to use the parking lot. Ms. Chakas said that they appreciate the board's support and they have agreed to all of the conditions listed in the staff report.

Chairman Oldaker said that the board is looking at an application and wanted to make sure that the Town has verified the application and that the parties involved were authorized to do what the application states.

Ms. Connors responded that the owner of the property signed the application.

Since there were no public comments, Chairman Oldaker asked the board for a motion.

Mr. Wick made a motion, seconded by Mr. Yankwitt, to pass this on to the Town Commission with the board's recommendation to approve the conditional use with staff's 11 conditions listed in the staff report.

In a roll call vote, all voted in favor to recommend approval of the conditional use.

Ms. Connors interjected that these two items would be forwarded to the Town Commission for final approval on November 29, 2011.

## VI. OLD BUSINESS

### Item #1: Proposed Amendments to Section 30.9 Architectural Standards

Cecelia Ward of J. C. Consulting said that on August 17, 2011 the board, acting as the Town's local planning agency, had reviewed the draft ordinance proposing changes to Section 30-9 "Architectural Standards". Ms. Ward said that the board voted 3 to 2 to table the draft ordinance until November 16, 2011 and asked for an economic study to be completed regarding the proposed changes to the code. Ms. Ward said that this information was presented to the Town Commission at their September 13, 2011 meeting and at that time, the commission did not support proceeding with the economic study and instead requested that the ordinance be scheduled for first reading at the Town Commission that was held on October 11, 2011. At that meeting, the commission voted 3 to 2 to approve the proposed ordinance on the first reading. However, the commission also requested that the item again be brought before the local planning agency which was scheduled for this Planning and Zoning meeting and that staff would receive a recommendation from the board.

Ms. Ward recapped the changes that were proposed to the code. There are three basic provisions: 1) to delete the requirement for Mediterranean style as currently required by the code and instead replace it with a preferred style, not a mandatory style. That preferred style would be one that would be in keeping with the Mid-Century Modern. 2) Allowing greater flexibility in design, supported by appropriate standards. Ms. Ward said that they had received comments from the public and they just asked staff to clarify terminology regarding adjacent. Ms. Ward said they provided that information and it was highlighted in the draft ordinance provided in the backup material for the board. 3) it would remove the requirement for review by a Town Architectural Review Board and would replace that review specifically with a review by a Development Review Official based on a recommendation from a licensed architect. This would not in any way shape or form replace the duties of the Planning and Zoning Board with respect to any site plan. It would be the same as if there were an Architectural Review Board making a recommendation to board as it would be if the Development Review Official were making a recommendation to the board for any application that is required to go before the board. With that, Ms. Ward said that they would recommend approval of the proposed ordinance as amended.

Mr. Wick referred to the highlighted lines 144 through 146 in the proposed ordinance and asked if those changes were brought before the board the first time.

Ms. Ward said that this actually came up during public comments at the Town Commission meeting and these changes were added since that meeting as the result of those comments.

Mr. Yankwitt said for clarification the Town will no longer require a specific style of architecture and that the homeowner would have more of a choice in the type of style they would like.

Ms. Ward said that this ordinance does not apply to single family housing and the proposed ordinance would apply more to multi-family and commercial properties. Ms. Ward said that Mr. Yankwitt was correct and that there would not be a mandatory style. Ms. Ward said that after the first Planning and Zoning meeting, she did some research and found that the enactment of the original Mediterranean Style was really twenty years ago and it was based on a Coral Gables ordinance which did not make a lot of sense to her. Ms. Ward said that it would make perfect sense if someone wants to change the style as long as they show how that fits in with the character of the surrounding area.

Chairman Oldaker asked Assistant Town Manager Bud Bentley to come forward and said that he understood that staff was working hard to get all of the backup together for the board meeting and commented that he would like to have pictures or anything that would be relevant to help the board go through the analysis included in the packet and not be presented with the material as the board arrives at the hearing. Chairman Oldaker said that he mentally spends time organizing everything and he thought time would be better spent when he would have more time to focus on the material and not at the hearing.

Mr. Bentley said that Chairman Oldaker made an excellent suggestion and his comments were so noted.

There being no public comments, Chairman Oldaker asked the board for a motion.

Mr. Wick commented that 8 to 10 years ago the Town Council said that they wanted to put a color combination together and that was battered back and forth for a while. Mr. Wick said that a good example of the Mediterranean Style was the Minto property. Mr. Wick said that recently a study was done that indicated that the Town was more Mid-Century Modern than Mediterranean.

Mr. Wick made a motion, seconded by Mr. Yankwitt, to pass the proposed ordinance through for a vote by the Town Commission at its next meeting.

In a roll call vote, all voted in favor to pass the proposed ordinance on to the Town Commission for a vote.

#### VII. UPDATES/BOARD MEMBER COMMENTS

Mr. Wick announced that there would be a Halloween Party at Town Hall on October 31<sup>st</sup> that is being run by Commissioner Clottey and that she is looking for volunteers. Mr. Wick wished everyone a Happy Halloween.

#### VIII. ADJOURNMENT

Having nothing further to discuss, Chairman Oldaker requested and received a motion and second to adjourn the meeting at 7:20 p.m.

ATTEST:

\_\_\_\_\_  
Chairman Alfred Oldaker

Date Accepted: \_\_\_\_\_

\_\_\_\_\_  
Colleen Tyrrell, Board Secretary

# Exhibit 3



## CONDITIONAL USE DEVELOPMENT ORDER TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA

PROJECT NAME: VMC Realty Paid Private Parking  
ADDRESS OF PROPERTY: 224 Commercial Boulevard  
FOLIO #: 4943 18 05 0060  
PROPERTY OWNER: LAUDERSEA PROPERTIES N V  
% VMC REALTY  
APPLICANT: VMC REALTY  
APPLICANT ADDRESS: 224 Commercial Boulevard

REQUEST: To operate paid private parking originating from the parking lot of 1 Commercial Boulevard utilizing the parking lots located at 224 Commercial Boulevard, pursuant to Sections 30-56, Conditional Uses Review, and Section 30-13, Quasi-Judicial Procedures, and Section 30-271(b) and Section 30-261(b)(3) of the Lauderdale-By-The-Sea Code of Ordinances.

SECTION 1. FINDINGS. THIS MATTER came before the TOWN Commission of the TOWN of LAUDERDALE- BY-THE-SEA, Florida, on November 29, 2011, following due public notice. The TOWN Commission having considered the public testimony, evidence in the record, the testimony of the applicant, and the recommendation of the TOWN Planning and Zoning Board and administrative staff, finds that the application, as conditioned herein, will promote the public health, safety, welfare, order, comfort, convenience, appearance, or prosperity of the neighborhood and further, that the application does meet all of the criteria in Section 30-56(d), which are as follows:

1. Land Use Compatibility; and
2. Sufficient Site Size, Site Specifications, and Infrastructure; and

# Exhibit 3

3. Compliance with the Comprehensive Plan and Code of Ordinances; and
4. Proper Use of Mitigative Techniques.

SECTION 2. APPROVAL. The request to operate paid private parking from the property is hereby approved.

SECTION 3. CONDITIONS. The APPROVAL granted herein is subject to the following conditions:

1. The use will be maintained and operated as provided in the Aruba Beach Café applicant's letter of request submitted with the application received by the Development Services Department on February 28, 2011.
2. The applicant may provide valet customer parking and paid private parking through Aruba Beach Café valet service and only from their business location (1 Commercial Boulevard) during non-business hours of the primary business use/s for the applicant's property (224 Commercial Blvd).
3. All vehicles shall be dropped off and picked up at Aruba Beach Café and no customers shall drop off or pick up at the applicant's site.
4. Noise disturbances from attendants or noises emanating from the vehicles that would disrupt the quiet enjoyment of the surrounding properties will not be permitted.
5. Within 30 days of approval, the applicant shall provide a maintenance plan describing how and who will be cleaning the parking lot on a daily basis prior to the opening hours of the business on site. The maintenance plan may be required to be modified by the Town Manager or designee if it does not adequately keep the property clean. In addition, the applicant may be required to clean off-site if litter is being produced from customers of the parking lot.
6. An active Business Tax Receipt for the "Paid Public Parking" operation is required.
7. All state and county licenses are required to be maintained at all times.
8. The Conditional Use permit is specific to the applicant and is not transferable.
9. Parking meters or pay stations are prohibited.
10. This development order shall be recorded in the Public Records of Broward County by the applicant, at his/her sole cost and expense.
11. Failure to provide to the Town a certified recorded copy of the conditional use order or the maintenance plan within 30 days of approval will nullify the approval of this conditional use application.

SECTION 4. VIOLATION OF CONDITIONS. Failure to adhere to the terms and conditions of this Development Order shall be considered a violation of the Town Code and persons found violating

# Exhibit 3

the conditions shall be subject to the penalties prescribed by the Town Code, including but not limited to, the revocation of any of the approval(s) granted in this Development Order. The Applicant understands and acknowledges that it must comply with all other applicable requirements of the Town Code before it may commence construction or operation, and that the foregoing approval in this Development Order may be revoked by the Town at any time upon a determination that the Applicant is in non-compliance with the Town Code or the conditions of this Approval.

SECTION 5. APPEAL. In accordance with Section 30-13(d)(12) of the Town Code, the Applicant, or any aggrieved property owner in the area, may appeal the decision of the Town Commission in the Circuit Court of Broward County, Florida, in accordance with the Florida Rules of Appellate Procedure.

SECTION 6. EFFECTIVE DATE. This Development Order shall become effective upon Approval by the Commission.

**APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
**MAYOR ROSEANN MINNET**

**ATTEST:**

\_\_\_\_\_  
June White, Town Clerk, CMC

**Approved as to form:**

\_\_\_\_\_  
Susan L. Trevarthen, Town Attorney